

Claimant testified to two (2) injuries, one to her thumb on June 26, 1994 and the second to her back on June 28, 1994. The Administrative Law Judge indicated in his Order that he was not persuaded by the in-person testimony of the claimant. Based upon his evaluation and the credibility and other factors in the record tending to support that conclusion, the Appeals Board agrees. Claimant had worked for respondent for only three (3) days and evidence further indicates that claimant had a prior claim of injury to her low back approximately one and one-half (1½) to two (2) years prior to the current claim. She did not give a plausible explanation of her activities between the prior claim and the current claim. The respondent introduced testimony directly contradicting claimant's assertion that

she had tried to come back to work for respondent after the current injury. In fact, it appears that she sought some chiropractic treatment and then returned to Texas. Claimant also asserts treatment to her hand or thumb that was not substantiated by the medical records. Based upon this combination of factors, the Appeals Board finds that the decision by the Administrative Law Judge should be affirmed.

WHEREFORE, the Appeals Board finds that the preliminary Order of Administrative Law Judge George R. Robertson dated April 7, 1995 should be, and the same is, hereby affirmed.

IT IS SO ORDERED.

Dated this ____ day of August 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: M. John Carpenter, Great Bend, KS
John David Jurcyk, Lenexa, KS
George R. Robertson, Administrative Law Judge
David Shufelt, Acting Director